

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING
37.70.305, 37.70.311, 37.70.312,)	ON PROPOSED AMENDMENT
37.70.401, 37.70.406, 37.70.408,)	
37.70.601, 37.70.602, and 37.71.601)	
pertaining to Low Income Energy)	
Assistance Program (LIEAP) and Low)	
Income Weatherization Assistance)	
Program (LIWAP))	

TO: All Interested Persons

1. On May 30, 2007, at 1:30 p.m., a public hearing will be held in the Wilderness Conference Room of the Department of Public Health and Human Services Colonial Building, 2401 Colonial Drive, Helena, Montana to consider the proposed amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on May 21, 2007 to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.70.305 MAKING APPLICATION (1) A new application for low income energy assistance must be made for each new heating season, ~~or~~ and when a household changes residence during the heating season. An application is initiated by filing a signed written application on the form prescribed by the department at the office of the local contractor in the area where the applicant lives. If necessary, the contractor will provide assistance in completing the application form.

(2) remains the same.

(3) An application for low income energy assistance generally must be filed during the heating season for which assistance is being sought, that is, between October 1 and April 30. If April 30 falls on a weekend or legal holiday, the contractor must accept applications on the next business day after the weekend or legal holiday. However, at the option of the department, applicants who use certain types of heating fuel which are sold at lower prices during the summer months or applicants for emergency services ~~between May 1 and September 30~~ may be permitted to file their applications prior to October 1 of the heating season for which

they are seeking assistance. In the case of applicants who use other types of fuel and who are not seeking emergency services, the contractor may in its discretion accept applications prior to October 1, but the date of application will be deemed to be October 1.

~~(4) After the application is filed, the contractor may request any additional information or documentation required to verify whether the applicant is eligible for assistance. The contractor may also, at its option, conduct an interview with the applicant in person or by telephone if necessary to determine eligibility. In cases where the contractor considers an interview to be necessary and neither the contractor's office nor a telephone is reasonably accessible to the applicant, the contractor will conduct the interview at some place which is reasonably convenient for both the applicant and the contractor.~~

~~(5) The applicant has the burden of proving that the applicant meets all requirements for eligibility, and the application will be denied if the applicant fails to provide necessary information or documentation when requested to do so.~~

~~(6) remains the same but is renumbered (4).~~

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.311 PROCEDURES FOLLOWED IN PROCESSING APPLICATIONS

~~(1) Procedures followed in~~ The procedure ~~for determining eligibility for low income energy assistance are is:~~

~~(a) An application is filed by the applicant together with all necessary verification for determining financial eligibility and benefit award. After an application is filed, the contractor may request any additional information or documentation needed to determine eligibility and/or benefit amount. If an An applicant who willfully fails to provide information or documentation necessary for a determination of eligibility within 45 days of the date of initial application the application shall be denied, determined ineligible but the household may reapply for assistance. The staff member of the local contractor accepts the application and determines financial eligibility and amount of benefit. The client is notified of the reasons for approval or disapproval of his application. Eligible applicants shall be notified that benefits are computed for heating costs only for the period October 1 through April 30.~~

~~(b) (i)~~ (i) Eligibility requirements that must be verified include but are not limited to:

~~(i) (A)~~ (A) current receipt of benefits under supplemental security income or cash assistance funded by temporary assistance for needy families (TANF);

~~(ii) (B)~~ (B) income/resources;

~~(iii) (C)~~ (C) lack of tax dependency status for individuals enrolled at least half time in an institution of higher education;

~~(iv) (D)~~ (D) primary heating fuel; and

~~(v) (E)~~ (E) receipts to support paid eligible energy costs when a household seeks direct reimbursement for paid eligible energy costs as provided in ARM 37.70.607. Failure to provide receipts to the local contractor within 45 days of the heating season's end will result in forfeiture of any remaining benefits for that heating season.

~~(e)~~ (ii) If reasonable doubt exists as to the accuracy of the information provided by the client, the type of dwelling, ~~including the number of bedrooms,~~ and/or the primary heating fuel/vendor must also be verified.

(b) The contractor may at its option conduct an interview with the applicant in person or by telephone if necessary to determine eligibility. In cases where the contractor considers an interview to be necessary and neither the contractor's office nor a telephone is reasonably accessible to the applicant, the contractor will conduct the interview at some place which is reasonably convenient for both the applicant and the contractor.

(c) After eligibility and benefit amount has been determined, notice of the decision will be given to the applicant as provided in ARM 37.70.312.

(2) A household's eligibility and benefit amount will be determined based on the household's circumstances at the time the application is filed, including, but not limited to, the type of the household's dwelling, the number of bedrooms in the dwelling, the dwelling's primary heating fuel, the heating district in which the dwelling is located, who is residing in the household, and the household's resources. Eligibility in regard to income, however, is based on the household's income in the 12 months immediately preceding the month of application, as provided in ARM 37.70.401(1) and 37.70.406(1).

(3) The applicant has the burden of proving that the household meets all requirements for eligibility.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.312 NOTIFICATION OF ELIGIBILITY (1) An individual who makes application for low income energy assistance will be notified in writing whether the application has been approved or denied and, if the application is approved, of the benefit amount. If the application is denied, the notice shall state the reason for the denial. A notice approving or denying an application shall advise the applicant of the right to a fair hearing as provided in ARM 37.5.307. and weatherization will receive written notice of eligibility. If the applicant is determined ineligible, notification shall include the reasons for nonapproval.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.401 DEFINITIONS (1) "Annual gross income" means all nonexcluded income including but not limited to wages, salaries, commissions, tips, profits, gifts, interest or dividends, retirement pay, workers' compensation, unemployment compensation, social security retirement and disability payments, supplemental security income payments, cash public assistance benefits such as temporary assistance for needy families or tribal, state, or county general relief, and capital gains received by the members of the household in the 12 months immediately preceding the month of application.

(a) through (4) remain the same.

(5) "Eligible energy costs" means costs of the various types of energy

supplied by the household's fuel vendors. Energy delivered by the household's fuel vendors prior to October 1 are ineligible for payment ~~under~~ in the current year's ~~program~~ heating season, except that charges incurred from July 1 through September 30 for propane to heat a residence are eligible for payment in the current heating season. Provided, however, that eligible energy costs may include energy delivered prior to October 1 for applications filed after September 30, when the type of fuel and the vendor's normal billing procedures make the above definition impracticable.

(6) "Heating season" means the period from October 1 to April 30 of the following year. For example, the 1999 through 2000 heating season is the period from October 1, 1999, through April 30, 2000. The department may, however, in its sole discretion, extend the heating season beyond April 30. If the heating season is extended beyond April 30, LIEAP benefits may be applied against energy costs incurred in the additional months of the heating season, but no applications for benefits may be filed after April 30 except as provided in ARM 37.70.305.

(7) through (14) remain the same.

(15) "Paid eligible energy costs" means out-of-pocket expenditures paid by an eligible household in the form of rent payments or direct payments to a fuel vendor or person responsible for the fuel account for energy costs incurred during the heating season, for the dwelling in which the household resides at the time of application.

(16) through (23) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.406 INCOME STANDARDS (1) Households with annual gross income at or below 150% of the ~~2005~~ 2006 U.S. Department of Health and Human Services poverty guidelines are eligible for low income energy assistance on the basis of income. Households with an annual gross income above 150% of the ~~2005~~ 2006 poverty guidelines are ineligible for low income energy assistance, unless the household is automatically financially eligible for LIEAP benefits as provided in ARM 37.70.402 because all members of the household are receiving SSI, TANF-funded cash assistance, or county or tribal general assistance.

(2) The table of income standards for households of various sizes for the ~~2005~~ 2006 heating season may be accessed at the department's web site at www.dphhs.mt.gov, or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, Intergovernmental Human Services Bureau, P.O. Box 202956, Helena, MT 59620.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.408 RESOURCES (1) through (3) remain the same.

(4) In state fiscal year 2006, a household will be eligible if its total countable nonbusiness resources do not exceed ~~\$8,840~~ \$9,105 for a single person, ~~\$13,263~~ \$13,661 for two persons and an amount equal to ~~\$13,262~~ \$13,661 plus ~~\$884~~ \$911

for each additional household member, up to a maximum of ~~\$17,683~~ \$18,213 per household. In addition, the household may have business assets whose equity value does not exceed \$12,500.

(5) through (5)(b) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.601 BENEFIT AWARD (1) The benefit matrices in (1)(c) and (1)(d) are used to establish the benefit payable to an eligible household for a full heating season (~~October through April~~). The benefit varies by household income level, type of primary heating fuel, the type of dwelling (single family unit, multi-family unit, mobile home), the number of bedrooms in the dwelling, and the heating districts in which the household is located, to account for climatic differences across the state.

(a) and (b) remain the same.

(c) The following table of base benefit levels takes into account the number of bedrooms in a house, the type of dwelling structure, and the type of fuel used as a primary source of heating:

TABLE OF BENEFIT LEVELS

(i) SINGLE FAMILY

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$362	\$ 407	\$ 469	\$ 374	\$251	\$166
TWO	526	592	683	544	365	241
THREE	717	806	930	742	497	328
FOUR	987	1,109	1,279	1,020	684	451

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
<u>ONE</u>	<u>\$ 382</u>	<u>\$ 417</u>	<u>\$ 549</u>	<u>\$ 710</u>	<u>\$ 297</u>	<u>\$ 169</u>
<u>TWO</u>	<u>555</u>	<u>606</u>	<u>798</u>	<u>1,032</u>	<u>432</u>	<u>246</u>
<u>THREE</u>	<u>756</u>	<u>825</u>	<u>1,087</u>	<u>1,406</u>	<u>588</u>	<u>335</u>
<u>FOUR</u>	<u>1,040</u>	<u>1,135</u>	<u>1,495</u>	<u>1,934</u>	<u>809</u>	<u>461</u>

(ii) MULTI-FAMILY

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 306	\$ 344	\$ 397	\$ 398	\$212	\$140
TWO	461	518	598	599	319	211
THREE	677	761	877	879	469	309
FOUR	790	889	1,025	1,028	547	361

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 323	\$ 352	\$ 464	\$ 754	\$ 251	\$ 143
TWO	486	530	699	1,136	378	215
THREE	714	778	1,025	1,667	554	316
FOUR	834	909	1,198	1,947	647	369

(iii) MOBILE HOME

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 305	\$ 343	\$ 396	\$331	\$212	\$140
TWO	446	501	578	484	309	204
THREE	591	665	767	641	410	270
FOUR	660	742	856	715	458	302

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 322	\$ 351	\$ 462	\$ 627	\$ 250	\$ 143
TWO	470	513	676	917	366	208
THREE	624	680	896	1,215	485	276
FOUR	696	759	1,000	1,356	541	308

(d) remains the same.

(2) For households that applied for benefits for the 2004-2005 heating season prior to April 30, 2005 and were determined eligible, the heating season shall be extended until June 30, and they shall receive a supplemental benefit in addition to the benefit described in (1)(a). The supplemental benefit shall be equal to 27.95472% of the benefit provided in (1)(a) rounded to the nearest whole dollar or a minimum of \$20, whichever is greater. This supplemental benefit will be paid for the 2004-2005 heating season only.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.602 BENEFIT AWARDS: MISCELLANEOUS (1) and (2) remain the same.

(3) When a household changes residence or type of primary fuel during the heating season, the household ~~may request to have its benefit award recomputed for the new circumstances. When the household changes residence, a new application must be filed. The benefit award for the new circumstances must file a new application.~~ The household's benefit award will then be recomputed based on its new circumstances, and the new benefit will be will be equal to the benefit award the household would have received had its original application been for the new circumstances prorated from the date of the change of residence or type of primary fuel. ~~The~~ Any unused portion of the original benefit award reverts to the department. When a household changes type of primary heating fuel during the heating season, the household is not required to file a new application but must have its benefit award recomputed based on the new type of fuel. The new benefit will be prorated from the date of the change of type of fuel. Any unused portion of the original benefit reverts to the department.

(4) remains the same.

(5) When a household changes fuel vendors, establishes an account with a fuel vendor, or has other vendor related changes in circumstances without changing residence, any remaining LIEAP attributable credit balance will be returned to the department by the original fuel vendor. The unused portion of the benefit award may be forwarded to the new fuel vendor or reimbursed to the household as outlined in ARM 37.70.607.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.71.601 ELIGIBILITY FOR SERVICE, PRIORITIES (1) and (2) remain the same.

(3) In determining which eligible households will receive weatherization services and in what order, households in each of the governor's substate planning districts shall be ranked according to energy burden. Households with the highest energy burden shall be given the highest priority and households with the lowest energy burden shall be given the lowest priority.

(a) The energy burden, as defined in ARM 37.71.401, of households containing a member who is either 60 years of age or older or ~~handicapped~~ who has a disability as determined by the federal Social Security Administration under Title II or Title XVI of the Social Security Act will be multiplied by 1.25 for purposes of prioritization.

(4) through (7) remain the same.

(8) When a dwelling is prioritized high enough to be scheduled for weatherization work, the delivery of services will be deferred until a later date if providing the services would pose a threat to the health or safety of either a person who lives in the dwelling or of the weatherization installers. In such cases the

delivery of services will be postponed until the conditions that pose a threat to health or safety have been resolved. Circumstances that justify the deferral of weatherization services include but are not limited to the following:

(a) A person who lives in the dwelling has known health conditions that prohibit the installation of insulation and other weatherization materials.

(b) The building structure or its mechanical systems, including electrical and plumbing, are in such a state of disrepair that failure is imminent and the conditions cannot be resolved cost-effectively.

(c) The house has sewage or other sanitary problems that would further endanger persons who live in the dwelling or weatherization installers if weatherization work were performed.

(d) The house has been condemned or electrical, heating, plumbing, or other equipment has been "red tagged" by local or state building officials or utilities.

(e) Moisture problems are so severe they cannot be resolved under existing health and safety measures and with minor repairs.

(f) Dangerous conditions exist due to high carbon monoxide levels in combustion appliances, and cannot be resolved under existing health and safety measures.

(g) A person who lives in the dwelling is uncooperative, abusive, or threatening to the crew, subcontractors, auditors, inspectors, or others who must work on or visit the house.

(h) The extent and condition of lead-based paint in the house would potentially create further health and safety hazards.

(i) In the judgment of the department, any condition exists which may endanger the health and/or safety of the work crew or subcontractor.

AUTH: 53-2-201, 90-4-201, MCA

IMP: 53-2-201, 90-4-201, 90-4-202, MCA

3. The Low Income Energy Assistance Program (LIEAP) is a federally funded program to help low income households pay their home heating costs. The maximum income standards used to determine whether a household is eligible for LIEAP benefits are contained in ARM 37.70.406. These income standards are computed as a specified percentage of the federal poverty guidelines issued annually by the U.S. Department of Health and Human Services (HHS). The standards currently in ARM 37.70.406 are based on the HHS poverty guidelines for 2005.

HHS updates the poverty guidelines each year to take into account increases in the cost of living. It has been the long standing practice of the department to amend ARM 37.70.406 annually to provide that the updated version of the poverty guidelines will be used to set the income standards and benefit amounts for the current heating season. The department uses the updated version of the guidelines because they are higher than the guidelines for the previous year. If the department did not use the updated guidelines, some households might be ineligible for benefits or receive a smaller benefit due to inflationary increases in the household's income which do not reflect an increase in actual buying power. Thus, ARM 37.70.406 is

now being amended to provide that the 2006 rather than the 2005 poverty guidelines will be used for the 2006-2007 heating season.

ARM 37.70.305 specifies when a new application for LIEAP benefits must be filed and provides other information about the filing of a LIEAP application. Section (1) of ARM 37.70.305 currently provides that a household must file a new application for each heating season or when the household changes residence during the heating season. Previously the rule stated only that a household must file a new application for each new heating season, but in 2005 the provision was added requiring the filing of a new application when the household changes residence. A new application is necessary when the household moves because the household is entitled to have its benefit amount recomputed based on the household's circumstances at the new residence, such as type of primary heating fuel, dwelling type, and number of bedrooms. A new application provides the department's LIEAP contractor with information about the household's new circumstances necessary to determine accurately what the recomputed benefit will be.

When the rule was amended in 2005, however, it erroneously stated that a new application must be filed for each heating season or whenever the household changes its residence during the heating season rather than stating that a new application must be filed for each heating season and whenever the household changes its residence. Since a new application is necessary in both cases, the word "or" is being replaced by "and" to correct this error.

The department also proposes several amendments to section (3) of ARM 37.70.305, which currently provides that a LIEAP application must be filed during the heating season for which assistance is being sought, that is, between October 1 and April 30, except in the case of households who heat their homes with fuels that are sold at lower prices during the summer months (such as propane). The rule provides that the department may accept applications from such households prior to October 1 and may accept applications for LIEAP emergency services (as provided in ARM 37.70.901) at any time of the year. The department proposes to add a provision stating that households that are not seeking emergency services or do not use fuel that is less expensive in the summer may also be allowed to file their applications prior to October 1, but such applications will be deemed to be filed on October 1.

This provision is being added because it has been the practice of the department for a number of years to accept applications prior to October 1 from households with fixed incomes such as Social Security benefits that received benefits for the previous heating season regardless of the type of heating fuel the household uses. LIEAP contractors may not have enough employees to process these applications when they come in before October 1, because LIEAP contractors typically hire extra personnel beginning in October to handle the influx of LIEAP applications. Priority is given to the applications of households that heat with fuels like propane that are less expensive in the summer, so that benefits can be paid to eligible households while the cost to them of buying fuel is less. It is necessary to amend the rule to clarify

that households that use other types of fuel may file their applications before October 1 but they are not entitled to have their applications processed and to receive benefits before the official start of the heating season on October 1.

Section (4) of ARM 37.70.305 provides that the LIEAP contractor may request information or documentation and may conduct an interview with an applicant if necessary to determine eligibility. Section (5) provides that an applicant has the burden of proving that the applicant meets the requirements for eligibility. These sections are being deleted from ARM 37.70.305 and added to 37.70.311 governing the processing of LIEAP applications because these provisions relate to the procedure for processing applications rather than to the subject of when applications must be filed.

In addition to the insertion of provisions about interviews and the burden of proving eligibility that formerly were in ARM 37.70.305, a new provision is being added to ARM 37.70.311 to specify that a household's eligibility and benefit amount are based on the household's circumstances at the time the application is being processed, such as the number of household members, their income and resources, and characteristics of the dwelling. This is being added to the rule merely for clarification and does not represent a change in policy. A provision is also being added to state that the household will receive written notice as provided in ARM 37.70.312 after eligibility has been determined. This is not a new policy as ARM 37.70.312 already requires that written notice be given, but this is being added to ARM 37.70.311 because notice of eligibility is part of the application process. ARM 37.70.311 is also being reorganized and rewritten for reasons of style.

ARM 37.70.401 defines terms used in the LIEAP rules. Section (1), which defines "annual gross income," contains a list of types of income, such as wages, salaries, and commissions, but it specifically states that the list is not all inclusive. The department was recently involved in litigation in which a LIEAP applicant asserted that his Social Security retirement benefits should not be counted as income in determining his eligibility because such benefits currently are not listed in the rule. Although the department prevailed in the litigation, the department in the interest of avoiding further litigation is now adding other types of income to the list, such as Social Security retirement and disability benefits, and public assistance benefits like Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF) payments. This does not represent a change in policy as these payments have always been considered income.

The definition of "heating season" in section (6) currently provides that the heating season runs from October 1 of one year through April 30 of the next year. ARM 37.70.401(6) is now being amended because the department has discretion to extend the heating season beyond April 30. In 2005, the department amended ARM 37.70.608, which governs adjustment of payments to match available funds, to provide that the department may extend the duration of the heating season past April 30 when additional LIEAP funds become available. This provision was added because occasionally the department receives, in addition to its regular federal

LIEAP appropriation, other funding for LIEAP later in the heating season. For example, in 2005 the department received supplemental LIEAP funds of approximately \$2,000,000 late in the heating season. The department extended the heating season until June 30, 2005 in order to allow these additional funds to be distributed.

The extension of the heating season was necessary because LIEAP benefits are generally paid to the household's fuel vendor rather than directly to the household, and the benefit is applied to unpaid energy costs as provided in ARM 37.70.607. Some LIEAP households had paid their fuel vendor in full as of April 30 and had no unpaid energy costs as of that date. ARM 37.70.607 provides that fuel vendors must return an unpaid credit balance of more than \$50 remaining after April 30 to the department. By extending the end of the heating season to June 30, the supplemental benefit could be applied against energy costs incurred in May and June. Thus, payment of the supplemental benefit did not result in a credit balance of over \$50 which would have been returned to the department instead of benefiting the LIEAP household.

Since ARM 37.70.608(2)(b) now provides that the heating season may be extended past April 30, the definition of the term "heating season" is being amended to reflect the possibility that the heating season will not always end on April 30. This is more accurate than the current definition.

A provision is being added to specify that applications for LIEAP benefits cannot be filed after April 30 even when the department opts to extend the heating season beyond that date. The reason for not allowing new applications after April 30 is that the department's formula for prorating benefits when a benefit award is for less than the entire heating season is based on a seven month heating season from October through April. This formula would not work if applications were accepted after April 30.

Additionally the definition of "paid eligible energy costs" in ARM 37.70.401(15) is being amended. ARM 37.70.607(2) provides that the department will reimburse a household for its paid eligible energy costs if the household is not billed directly by the fuel vendor because the fuel account is not in the name of a member of the household. The definition of "paid eligible energy costs" is now being amended to specify that the term means only out of pocket expenditures made by the household for the dwelling in which the household resides at the time of LIEAP application. This is being added merely as a clarification and does not represent a change in policy.

In determining eligibility for LIEAP, the department considers not only income but also what assets (known as "resources") the household has that can be used to pay heating costs. ARM 37.70.408 specifies the rules relating to resources. Section (4) currently specifies the maximum amount of nonbusiness resources that households of varying sizes can have and still qualify for LIEAP in state fiscal year 2006. Since section (5) states that the dollar limits on nonbusiness resources will be revised

annually to adjust for inflation, it is necessary to amend section (4) to increase the dollar amounts for fiscal year 2007, that is, the year that runs from July 1, 2006 through June 30, 2007. Section (5) provides that the revised nonbusiness resource limits shall be computed by multiplying the current dollar limits by the percentage increase in the national consumer price index (CPI) for the previous calendar year or by 3%, whichever is less. The CPI for 2005 was 3.4%, so the department is increasing the dollar amounts in section (4) by 3%.

ARM 37.70.601 contains tables of benefit amounts which are used to establish the amount of benefits an eligible household will receive. As previously discussed, the amount of the household's benefit depends on multiple factors, including income level, type of primary heating fuel, the type of dwelling and number of bedrooms, and the heating district in which the household is located. The benefit amounts in the table have been revised based on the amount of LIEAP funds available to pay LIEAP benefits for the 2006-2007 heating season, which is \$13,660,738, as well as fuel cost projections and an estimate of the number of households that will apply and be found eligible for LIEAP for the 2007 heating season.

The benefit amounts currently in the table were based on expected available funding of \$11,824,912 for the 2005-2006 heating season (although total funding for the 2005-2006 heating season came to \$19,931,106 after the federal government released additional LIEAP funds in March 2006). Thus, the cumulative increase in benefits for the 2006-2007 heating season is \$1,836,000. This increase will affect approximately 22,700 LIEAP households.

The Low Income Weatherization Assistance Program (LIWAP) is a federally funded program that provides energy conservation measures such as the installation of insulation and the sealing of ducts for dwellings of low income families. Since LIWAP funds are limited and weatherization services cannot be provided to every eligible dwelling, ARM 37.71.601 sets forth priorities for providing weatherization services. In general, households with the highest energy burden have the highest priority to receive weatherization services, although the fact that a household contains a member who has a disability or is over the age of 60 also is considered in determining priorities.

The department proposes to amend ARM 37.71.601 to provide that delivery of weatherization services may be deferred to a later date if providing the services would pose a threat to the health or safety of either a person who lives in the dwelling or of the persons who would provide the weatherization services. It is necessary to add this provision because the department's weatherization contractors sometimes encounter situations where it would be dangerous to provide services. For example, a household member might have a health condition such as respiratory problems or allergies that would be exacerbated by the installation of insulation or other weatherization materials, or the dwelling might have sewage or other sanitary problems that would endanger residents of the home and the weatherization installers if weatherization work was performed.

The amendment of ARM 37.71.601 is therefore necessary to authorize the department to defer weatherization work until the problem that creates a threat to health or safety is resolved and to describe what types of situations would be considered a health or safety threat.

Additionally subsection (3)(a) of ARM 37.71.601, which provides that age over 60 or disability of a household member is considered in determining priorities, currently uses the term "handicapped". This term is no longer considered an appropriate description of persons who have disabilities, and therefore "member who has a disability" is being substituted for "handicapped" in this part of the rule.

4. The department intends that the amendments to the LIEAP rules be applied retroactively to August 1, 2006. The department was unable to file this rule at an earlier date due to the pressing nature of other business. No detrimental effects are anticipated as a result.

5. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on June 7, 2007. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

6. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/d/ Barbara Hoffmann
Rule Reviewer

/s/ John Chappuis for
Director, Public Health and
Human Services

Certified to the Secretary of State April 30, 2007.